

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN
AT JAIPUR BENCH, JAIPUR.

O R D E R

Devi Sahay
Versus
Prahlad and ors.

S.B. CIVIL WRIT PETITION NO.584/2007

Date of Order : 17/4/2007.

CORUM
HON'BLE MR.JUSTICE MOHAMMAD RAFIQ

Shri Gajendra Bhawan for the petitioner.

Heard learned counsel for the petitioner.

The petitioner has challenged the order dated 13/9/2006 whereby the application of the defendants-respondents filed under Order 8 Rule 1A(3) of the C.P.C. has been allowed and copy of the patta with regard to the land in dispute issued in favour of the defendants subsequent to filing of the suit has been taken on record on payment of cost.

Learned counsel for the petitioner argued that the patta has been issued by the Gram Panchayat in order

to frustrate the pending civil suit inasmuch as, land allotted in the part of a public chowk. Besides, subsequently patta itself has been cancelled by the Panchayat Samiti in the appeal filed by the petitioner on 11/6/2001 and, thereafter, the order of the Panchayat Samiti has been upheld by the District Collector who also rejected the revision petition filed by the defendants-respondents on 22/3/2006.

On hearing learned counsel for the petitioner and perusing the impugned-order, I find that reference to the pending revision petition before the District Collector Sikar has been made even in that order when it was stated that the said petition was dismissed in default. It appears that subsequently revision petition was restored and was eventually dismissed. Learned court below noted that whether or not patta was legal and whether or not the said patta was admissible in evidence, are all issues which shall have to be decided in the main suit. Merely taking patta on record therefore, in my considered view, is not a conclusive proof of its legality or admissibility. Besides, if the petitioner wants to place any other document on record in rebuttal, he could also make an application to the

trial court specially for bringing on record copies of the orders passed by the Panchayat Samiti cancelling the patta and subsequent order of the District Collector when rejecting the revision petition of the defendants which shall be considered and decided by the court in accordance with law.

I do not find any merit in this petition. With the aforesaid observations, the writ petition is dismissed.

(MOHAMMAD RAFIQ), J.

anil